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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 03-332-B (400/126))

In the Application of:

McSwiggen et al.

Serial No.: 10/652,791

Filing Date: August 29, 2003

For: RNA Interference Mediated Inhibition of  
Platelet-Derived Endothelial Cell Growth )  
Factor (ECGF1) Gene Expression Using )  
Short Interfering Nucleic Acid (siNA) )

Examiner: CHONG, Kimberly

Group Art Unit: 1635

Confirmation No.: 3409

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

1. The Compact Disc contained herein ("03-332-B") submitted under 37 C.F.R. § 1.52(e):

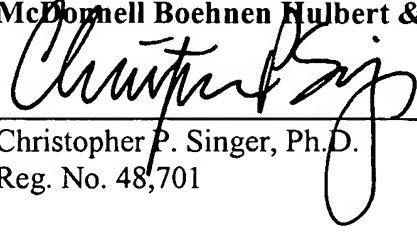
- ☒ Is formatted for IBM-PC Machines
- ☒ Is compatible with MS-Windows Operating System
- ☒ Contains the file "03-332-B\_Sep 2006.txt" which is 77,824 bytes in size and created on September 25, 2006.

2. Statement under 37 C.F.R. § 1.52(e)(4): The undersigned certifies that the CD-R submitted herein, titled "03-332-B" (COPY 1) and the CD-R entitled "03-332-B" (COPY 2) are identical in content as required by C.F.R. § 1.52(e)(4).

Respectfully submitted,  
McDonnell Boehnen Hulbert & Berghoff

Dated: September 25, 2006

By:

  
Christopher P. Singer, Ph.D.  
Reg. No. 48,701

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(MBHB 03-332-B)

Re Application of:

McSwiggen et al.

Serial No. 10/652,791

Filed: August 29, 2003

For: RNA Interference Mediated Inhibition of  
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Factor (ECGF1) Gene Expression Using  
Short Interfering Nucleic Acid (siNA)

Group Art Unit: 1635

Examiner: Chong, Kimberly

Confirmation No. 2678

Mail Stop SEQUENCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

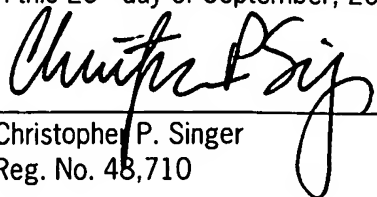
TRANSMITTAL LETTER

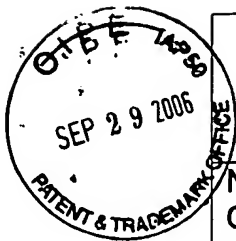
In regard to the above identified application:

1. We are transmitting herewith the attached:
  - a. Amendment and Response to Notice to Comply mailed August 25, 2006
  - b. Substitute Sequence Listing (on 3x CD-R, w/2 transmittal letters)
  - c. Return Receipt Postcard.
2. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2490. A duplicate copy of this sheet is enclosed.
3. CERTIFICATE OF MAILING UNDER 37 CFR § 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described in paragraph 1 hereinabove, are being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Sequence, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on this 25<sup>th</sup> day of September, 2006.

Date: September 25, 2006

By:

  
Christopher P. Singer  
Reg. No. 48,710



## Notice to Comply

Application No.

10/652,791

Applicant(s)

McSwiggen et al.

Examiner

Chong

Art Unit

1635

### NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set in the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☒ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other: Claim 36 recites SEQ ID NO. 225 however the application does not contain a sequence listing as required above.

#### Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the specification.**
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (571) 272-2510

For CRF Submission Help, call (571) 272-2501/2583.

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**Notice to Comply**

***CRF Sequence Listing***

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth below or on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

In the instant case, Applicants have submitted a substitute CRF copy of the sequence listing in the reply filed on 05/24/2006; however, the Office's STIC Biotechnology Systems Branch is unable to process the substitute CRF for the reasons given on the attached Raw Sequence Listing Error Report. Further, the Examiner is unable to search and examine the claims of the instant application, specifically with regard to SEQ ID NO. 225, because SEQ ID NO. 225 has not been submitted.

Applicants are requested to resubmit the sequence listing in corrected form along with the necessary papers and statements.

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer, from the mailing date of this letter within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory

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period. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

### **Conclusion**

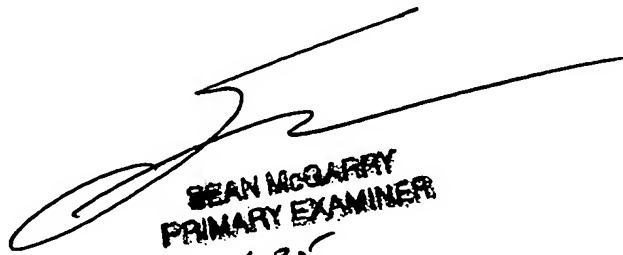
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Chong whose telephone number is 571-272-3111. The examiner can normally be reached Monday thru Friday between 7-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached at 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Kimberly Chong  
Examiner  
Art Unit 1635



SEAN MCGARRY  
PRIMARY EXAMINER  
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